

Again, I appreciate the Senator from West Virginia in allowing us the use of his office. We had a number of judicial nominations that came up. Virtually all Republican Senators took the time to come to introduce their judicial nominees. I appreciate that, too.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I see the distinguished chairman of the Judiciary Committee. We had some hearings last week and some movement toward judicial confirmations, for which I am happy. I am glad one judicial nominee from Alabama was one of those which was moved. Of course, there was no controversy, I believe, about any of those nominees. Traditionally, it has not been necessary to have a big hearing if everybody is happy and respectful of the nominees. That is the way it has always been. If people have questions and concerns, they come.

I think it is a good thing that we are seeing some movement. But I would like to see more. That is why we have not been able to have an agreement on the foreign ops bill. I think that bill could move at any time we could get a fairly reasonable consensus on processing nominees.

I know there is a nominee from Alabama who is unanimously rated as well qualified by the ABA in a district which has had two of the three judges vacant for over 2 years. It is probably the No. 1 critical district in the country. We critically need a hearing on that judge.

We have others who are pending. In fact, President Bush nominated 11 individuals on May 11, a highly qualified group. But only three of those have received a hearing, and only two have been confirmed out of that group.

We have a growing backlog. We confirmed some judges. We went down from 110 vacancies to 108, I believe.

Mr. LEAHY. Mr. President, will the Senator yield? I don't want to interrupt him.

Mr. SESSIONS. Please.

Mr. LEAHY. I can actually speak about those better than he can because I have heard his speech enough times.

I believe the Senator mentioned a judgeship from Alabama that was qualified last week. I am sorry the Senator from Alabama was unable to be there. I do appreciate him being there for the markup earlier. I thank our colleague, Senator SHELBY, for his fine words about the nominee. We are trying to move that nominee from Alabama very quickly. We are doing that to try to help the other Senator from Alabama, Mr. SESSIONS. We will keep on the pace, and someday we can go past, if we ever get our offices back.

Mr. SESSIONS. I thank the chairman. I remember so vividly how aggressive he was to make sure President Clinton's nominees were moved

promptly. I can give his speech because I have heard it many times. Basically, his complaint was that the Republican majority, under Chairman HATCH at that time, was not moving Federal judges effectively enough. At that time, when we finished this last Congress and President Clinton was in his last days, there were 67 vacancies in the Federal courts. He said that was unacceptable, and he thought it should have been lower than that, although there were only 41 nominees.

President Clinton submitted only 41 nominees for the 67 vacancies, which was what was left. There were 41 nominees unconfirmed when President Clinton left office. Now we are pushing probably 60 nominees. And the vacancies have gone from 67 to 108. It may now be back up to 109, even though we confirmed 2.

You can constantly have judges out of the 800 or so taking retirement. As you do, if you do not have a constant flow of nominees being confirmed, the vacancy rate grows. Senator LEAHY declared that the 67 vacancies we had last year was a crisis in the judiciary, and there was something awful about that. I thought we were moving pretty fast. Frankly, 60 or so vacancies is about the standard. It is hard to get it below that because when a judge retires, then the President has to decide who he would like to consider for nomination. There have to be background checks on them and ABA reports. It takes some time to move forward.

But when the number gets up to nearly twice that to 108 or 109, 110 vacancies, then we have a bigger problem. I think we ought to be able to keep that number close to the 60.

We are not moving fast enough. I think all of us agree. I know former Chairman HATCH feels strongly about this, as do others. We need to see what we can do to reach an accord.

There is some suggestion—I am not one who necessarily thinks we will do so—that we will be finishing up a little earlier this year than normal. That means we may not have more than 4 weeks or so left. If we are going to do just a couple of judges a week, we are going to end up with well over 100 or so vacancies when we leave this time. That is too many. We could do a better job of moving the nominees for which there is no objection to nominees that have bipartisan support—nominees that received “qualified” and “well-qualified” ratings.

We believe that is the way we ought to go. I also say in addition to the foreign operations appropriations bill, there are a lot of important pieces of legislation that come before this Senate. There are a lot of things that need to be moved. There are a lot of appropriations bills that we could be debating and discussing.

I suggest we keep working with the majority leader and the chairman of the Judiciary Committee. Let's see if we can't get some sort of commitment to give an extra effort to reduce some-

what the number of judges who are pending but have not been confirmed and get that number down, or else I think those of us on this side have to conclude that we have some sort of slowdown going on. I think it is the right thing for us to ask. It is a just thing to ask.

If it is a vacancy rate that far exceeds that which occurred under President Clinton's time in office, the very same people who were critical of this Congress moving President Clinton's nominees for judges are now creating a much larger vacancy rate.

I believe we can do better. I know we can. I know we can move the non-controversial judges better than we are doing.

I urge us to spend some extra time on that. If so, we will be able to eliminate this hurdle that is creating a problem with the foreign operations appropriations bill. Hopefully, we will have a good bill that we can all support. Hopefully, we will have an agreement that is fair and just and reasonable which would allow more nominees to be moved.

I am sure we are not going to be able to get our vacancy rate down to the level of the 1960s, which is where it ought to be. But we ought to be able to get it moving down well under 100 in some sort of agreement that could be reached.

That is my observation and my concern at this time.

I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Nevada.

Mr. REID. Mr. President, we have a number of nominations that are on the Executive Calendar. This evening we are going to try to move a number of these nominations, beginning on page 3. We ask every Senator and every staff member to make sure they review these. If there are problems that a Senator has, they should make contact with leadership offices and/or the cloakroom and indicate that they have some problem with some of these nominees. Otherwise, we are going to try to approve a number of them this evening. We have on the Executive Calendar a number of names we would normally send out with a hot line.

There is nobody in the office to listen to the hotline, so we would ask everyone to specifically look at the Executive Calendar and determine if there are any people they do not wish to clear, or if they have any questions, whatever the question might be.

We have heard, on a number of occasions the last several days during this filibuster, they hope something can be done to arrive at some agreement so as to move judges.

I think the good faith of the majority has been shown by our literally voting on every judge that has come through the committee and has been marked up and reported to the floor. It would have been easy for us the past several weeks, during these extended filibusters on several bills, to just hold all these